

By: Representative Brown

To: Education

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 525

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE REQUIREMENT THAT THE SCHOOL SUPERINTENDENT MUST  
3 APPROVE STUDENT ABSENCES FOR MEDICAL OR DENTAL APPOINTMENTS; TO  
4 AUTHORIZE A DESIGNEE OF THE SCHOOL SUPERINTENDENT TO REPORT  
5 UNLAWFUL ABSENCES TO THE SCHOOL ATTENDANCE OFFICER; AND FOR  
6 RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 37-13-91, Mississippi Code of 1972, is  
9 amended as follows:

10 37-13-91. (1) This section shall be referred to as the  
11 "Mississippi Compulsory School Attendance Law."

12 (2) The following terms as used in this section are defined  
13 as follows:

14 (a) "Parent" means the father or mother to whom a child  
15 has been born, or the father or mother by whom a child has been  
16 legally adopted.

17 (b) "Guardian" means a guardian of the person of a  
18 child, other than a parent, who is legally appointed by a court of  
19 competent jurisdiction.

20 (c) "Custodian" means any person having the present  
21 care or custody of a child, other than a parent or guardian of the  
22 child.

23 (d) "School day" means not less than five (5) and not  
24 more than eight (8) hours of actual teaching in which both  
25 teachers and pupils are in regular attendance for scheduled  
26 schoolwork.

27 (e) "School" means any public school in this state or  
28 any nonpublic school in this state which is in session each school



29 year for at least one hundred eighty (180) school days, except  
30 that the "nonpublic" school term shall be the number of days that  
31 each school shall require for promotion from grade to grade.

32 (f) "Compulsory-school-age child" means a child who has  
33 attained or will attain the age of six (6) years on or before  
34 September 1 of the calendar year and who has not attained the age  
35 of eighteen (18) years on or before September 1 of the calendar  
36 year; and shall include any child who has attained or will attain  
37 the age of five (5) years on or before September 1 and has  
38 enrolled in a full-day public school kindergarten program.  
39 Provided, however, that the parent or guardian of any child  
40 enrolled in a full-day public school kindergarten program shall be  
41 allowed to disenroll the child from the program on a one-time  
42 basis, and such child shall not be deemed a compulsory-school-age  
43 child until the child attains the age of six (6) years.

44 (g) "School attendance officer" means a person employed  
45 by the State Department of Education pursuant to Section 37-13-89.

46 (h) "Appropriate school official" means the  
47 superintendent of the school district, or his designee, or, in the  
48 case of a nonpublic school, the principal or the headmaster.

49 (i) "Nonpublic school" means an institution for the  
50 teaching of children, consisting of a physical plant, whether  
51 owned or leased, including a home, instructional staff members and  
52 students, and which is in session each school year. This  
53 definition shall include, but not be limited to, private, church,  
54 parochial and home instruction programs.

55 (3) A parent, guardian or custodian of a  
56 compulsory-school-age child in this state shall cause the child to  
57 enroll in and attend a public school or legitimate nonpublic  
58 school for the period of time that the child is of compulsory  
59 school age, except under the following circumstances:

60 (a) When a compulsory-school-age child is physically,  
61 mentally or emotionally incapable of attending school as



62 determined by the appropriate school official based upon  
63 sufficient medical documentation.

64 (b) When a compulsory-school-age child is enrolled in  
65 and pursuing a course of special education, remedial education or  
66 education for handicapped or physically or mentally disadvantaged  
67 children.

68 (c) When a compulsory-school-age child is being  
69 educated in a legitimate home instruction program.

70 The parent, guardian or custodian of a compulsory-school-age  
71 child described in this subsection, or the parent, guardian or  
72 custodian of a compulsory-school-age child attending any nonpublic  
73 school, or the appropriate school official for any or all children  
74 attending a nonpublic school shall complete a "certificate of  
75 enrollment" in order to facilitate the administration of this  
76 section.

77 The form of the certificate of enrollment shall be prepared  
78 by the Office of Compulsory School Attendance Enforcement of the  
79 State Department of Education and shall be designed to obtain the  
80 following information only:

81 (i) The name, address, telephone number and date  
82 of birth of the compulsory-school-age child;

83 (ii) The name, address and telephone number of the  
84 parent, guardian or custodian of the compulsory-school-age child;

85 (iii) A simple description of the type of  
86 education the compulsory-school-age child is receiving and, if the  
87 child is enrolled in a nonpublic school, the name and address of  
88 the school; and

89 (iv) The signature of the parent, guardian or  
90 custodian of the compulsory-school-age child or, for any or all  
91 compulsory-school-age child or children attending a nonpublic  
92 school, the signature of the appropriate school official and the  
93 date signed.



94           The certificate of enrollment shall be returned to the school  
95 attendance officer where the child resides on or before September  
96 15 of each year. Any parent, guardian or custodian found by the  
97 school attendance officer to be in noncompliance with this section  
98 shall comply, after written notice of the noncompliance by the  
99 school attendance officer, with this subsection within ten (10)  
100 days after the notice or be in violation of this section.  
101 However, in the event the child has been enrolled in a public  
102 school within fifteen (15) calendar days after the first day of  
103 the school year as required in subsection (6), the parent or  
104 custodian may, at a later date, enroll the child in a legitimate  
105 nonpublic school or legitimate home instruction program and send  
106 the certificate of enrollment to the school attendance officer and  
107 be in compliance with this subsection.

108           For the purposes of this subsection, a legitimate nonpublic  
109 school or legitimate home instruction program shall be those not  
110 operated or instituted for the purpose of avoiding or  
111 circumventing the compulsory attendance law.

112           (4) An "unlawful absence" is an absence during a school day  
113 by a compulsory-school-age child, which absence is not due to a  
114 valid excuse for temporary nonattendance. Days missed from school  
115 due to disciplinary suspension shall not be considered an  
116 "excused" absence under this section. This subsection shall not  
117 apply to children enrolled in a nonpublic school.

118           Each of the following shall constitute a valid excuse for  
119 temporary nonattendance of a compulsory-school-age child enrolled  
120 in a public school, provided satisfactory evidence of the excuse  
121 is provided to the superintendent of the school district, or his  
122 designee:

123           (a) An absence is excused when the absence results from  
124 the compulsory-school-age child's attendance at an authorized  
125 school activity with the prior approval of the superintendent of  
126 the school district, or his designee. These activities may



127 include field trips, athletic contests, student conventions,  
128 musical festivals and any similar activity.

129 (b) An absence is excused when the absence results from  
130 illness or injury which prevents the compulsory-school-age child  
131 from being physically able to attend school.

132 (c) An absence is excused when isolation of a  
133 compulsory-school-age child is ordered by the county health  
134 officer, by the State Board of Health or appropriate school  
135 official.

136 (d) An absence is excused when it results from the  
137 death or serious illness of a member of the immediate family of a  
138 compulsory-school-age child. The immediate family members of a  
139 compulsory-school-age child shall include children, spouse,  
140 grandparents, parents, brothers and sisters, including  
141 stepbrothers and stepsisters.

142 (e) An absence is excused when it results from a  
143 medical or dental appointment of a compulsory-school-age  
144 child \* \* \*.

145 (f) An absence is excused when it results from the  
146 attendance of a compulsory-school-age child at the proceedings of  
147 a court or an administrative tribunal if the child is a party to  
148 the action or under subpoena as a witness.

149 (g) An absence may be excused if the religion to which  
150 the compulsory-school-age child or the child's parents adheres,  
151 requires or suggests the observance of a religious event. The  
152 approval of the absence is within the discretion of the  
153 superintendent of the school district, or his designee, but  
154 approval should be granted unless the religion's observance is of  
155 such duration as to interfere with the education of the child.

156 (h) An absence may be excused when it is demonstrated  
157 to the satisfaction of the superintendent of the school district,  
158 or his designee, that the purpose of the absence is to take  
159 advantage of a valid educational opportunity such as travel,



160 including vacations or other family travel. Approval of the  
161 absence must be gained from the superintendent of the school  
162 district, or his designee, before the absence, but the approval  
163 shall not be unreasonably withheld.

164 (i) An absence may be excused when it is demonstrated  
165 to the satisfaction of the superintendent of the school district,  
166 or his designee, that conditions are sufficient to warrant the  
167 compulsory-school-age child's nonattendance. However, no absences  
168 shall be excused by the school district superintendent, or his  
169 designee, when any student suspensions or expulsions circumvent  
170 the intent and spirit of the compulsory attendance law.

171 (5) Any parent, guardian or custodian of a  
172 compulsory-school-age child subject to this section who refuses or  
173 willfully fails to perform any of the duties imposed upon him or  
174 her under this section or who intentionally falsifies any  
175 information required to be contained in a certificate of  
176 enrollment, shall be guilty of contributing to the neglect of a  
177 child and, upon conviction, shall be punished in accordance with  
178 Section 97-5-39.

179 Upon prosecution of a parent, guardian or custodian of a  
180 compulsory-school-age child for violation of this section, the  
181 presentation of evidence by the prosecutor that shows that the  
182 child has not been enrolled in school within eighteen (18)  
183 calendar days after the first day of the school year of the public  
184 school which the child is eligible to attend, or that the child  
185 has accumulated twelve (12) unlawful absences during the school  
186 year at the public school in which the child has been enrolled,  
187 shall establish a prima facie case that the child's parent,  
188 guardian or custodian is responsible for the absences and has  
189 refused or willfully failed to perform the duties imposed upon him  
190 or her under this section. However, no proceedings under this  
191 section shall be brought against a parent, guardian or custodian  
192 of a compulsory-school-age child unless the school attendance



193 officer has contacted promptly the home of the child and has  
194 provided written notice to the parent, guardian or custodian of  
195 the requirement for the child's enrollment or attendance.

196 (6) If a compulsory-school-age child has not been enrolled  
197 in a school within fifteen (15) calendar days after the first day  
198 of the school year of the school which the child is eligible to  
199 attend or the child has accumulated five (5) unlawful absences  
200 during the school year of the public school in which the child is  
201 enrolled, the school district superintendent or his designee shall  
202 report, within two (2) school days or within five (5) calendar  
203 days, whichever is less, the absences to the school attendance  
204 officer. The State Department of Education shall prescribe a  
205 uniform method for schools to utilize in reporting the unlawful  
206 absences to the school attendance officer. The superintendent, or  
207 his designee, also shall report any student suspensions or student  
208 expulsions to the school attendance officer when they occur.

209 (7) When a school attendance officer has made all attempts  
210 to secure enrollment and/or attendance of a compulsory-school-age  
211 child and is unable to effect the enrollment and/or attendance,  
212 the attendance officer shall file a petition with the youth court  
213 under Section 43-21-451 or shall file a petition in a court of  
214 competent jurisdiction as it pertains to parent or child.  
215 Sheriffs, deputy sheriffs and municipal law enforcement officers  
216 shall be fully authorized to investigate all cases of  
217 nonattendance and unlawful absences by compulsory-school-age  
218 children, and shall be authorized to file a petition with the  
219 youth court under Section 43-21-451 or file a petition or  
220 information in the court of competent jurisdiction as it pertains  
221 to parent or child for violation of this section. The youth court  
222 shall expedite a hearing to make an appropriate adjudication and a  
223 disposition to ensure compliance with the Compulsory School  
224 Attendance Law, and may order the child to enroll or re-enroll in  
225 school. The superintendent of the school district to which the



226 child is ordered may assign, in his discretion, the child to the  
227 alternative school program of the school established pursuant to  
228 Section 37-13-92.

229 (8) The State Board of Education shall adopt rules and  
230 regulations for the purpose of reprimanding any school  
231 superintendents who fail to timely report unexcused absences under  
232 the provisions of this section.

233 (9) Notwithstanding any provision or implication herein to  
234 the contrary, it is not the intention of this section to impair  
235 the primary right and the obligation of the parent or parents, or  
236 person or persons in loco parentis to a child, to choose the  
237 proper education and training for such child, and nothing in this  
238 section shall ever be construed to grant, by implication or  
239 otherwise, to the State of Mississippi, any of its officers,  
240 agencies or subdivisions any right or authority to control,  
241 manage, supervise or make any suggestion as to the control,  
242 management or supervision of any private or parochial school or  
243 institution for the education or training of children, of any kind  
244 whatsoever that is not a public school according to the laws of  
245 this state; and this section shall never be construed so as to  
246 grant, by implication or otherwise, any right or authority to any  
247 state agency or other entity to control, manage, supervise,  
248 provide for or affect the operation, management, program,  
249 curriculum, admissions policy or discipline of any such school or  
250 home instruction program.

251 **SECTION 2.** This act shall take effect and be in force from  
252 and after July 1, 2009.

